

Key Ideas

Chapter 8: The Excessive Levy Appeal Process



In this section, we will discuss the following:

- *How to determine if you are eligible for an increase in levy.*
- *When to consider application for appeal.*
- *The appeal application process.*
- *The three-year growth factor appeal.*
- *The volunteer fire expense appeal.*
- *The increase in pension payments and contributions expense appeal.*
- *The fire fighting services appeal.*
- *Correction of math errors appeal.*
- *Shortfall appeal.*
- *Fire rates and their role in the appeal process.*

EXCESSIVE LEVY APPEAL PROCESS

The following section describes the excessive levy appeal process for township trustees. Before beginning, it is important to have a general understanding of what an excessive levy appeal is and how the appeal ties into the budget process. An excessive levy appeal is a request for consideration of an increase in levy for a township that is experiencing increased growth or increased operating expenses. The increase requested is above the normal maximum levy limitation in place by statute. The following outlines the excessive levy appeal process, time frame for consideration of an appeal, application to be filed and current appeals available.

Process (IC 6-1.1-18.5-12)

Any township that determines that it cannot carry out its governmental functions for the ensuing calendar year under the levy limitations imposed by statute, may before September 20 of the year preceding the ensuing calendar year, appeal to the Department of Local Government Finance for an increase in levy.



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A township is required to file a written petition with the Department of Local Government Finance stating that it cannot carry out the functions required by law and must supply a detailed statement outlining the need for an appeal. The Department of Local Government Finance submits the appeal petition to the Administrative Officer of the Local Government Control Board for consideration of the appeal.

The township may/may not be required to appear before the Local Government Tax Control Board for consideration of the appeal. The Local Government Tax Control Board reviews the petition and the financial information and makes a recommendation to the Department of Local Government Finance. The Local Government Tax Control Board is a recommending body only. The final decision will be made by the Department of Local Government Finance and an order will be issued to reflect the final determination.

Townships that fail to submit the required information will be denied. The township may not submit a new application until the next subsequent taxing year.

Time-frame

A township must consider application for an appeal during budget preparation. Any excessive levy appeals become part of the township's budget estimates for the ensuing calendar year. When the township prepares budget estimates for the ensuing calendar year, the amount of the excessive levy appeal to be considered by the Township Board and by the Department of Local Government Finance must be included in the township's estimated levy on line 16 and budget estimate reflected on line 1 of Township Form 4B. This levy figure must be inflated above your current maximum levy limitation to support consideration of an appeal. Ex. If an appeal for volunteer expense is pursued and the township foresees an increase in levy of \$10,000 then the net amount to be raised on Line 16 of Form 4B should include the \$10,000 appeal to be considered by the Township Board and Department of Local Government Finance plus the normal levy requested. If a Township Board fails to adopt the excessive levy appeal requested, the Department of Local Government Finance will not consider the request. It is the township trustee's responsibility to advertise and adopt high enough for consideration of an appeal.



A township must consider application for an appeal during budget preparation.

Application

Each year, the Budget Division of the Department of Local Government Finance mails to each township an excessive levy appeal application that identifies the type of appeals available to the township for the ensuing calendar year. The appeal petition must be submitted directly to the Department of Local Government Finance's Budget Division, not with the Budget paperwork.

Top Section: The trustee must complete this section, which provides the Budget Division with township unit information. The blanks to be completed include the trustee's name, address, city/state/zip, telephone and county. The hearing notice will be mailed to the name and address listed in this section.

Middle Section: The trustee checks the types of excessive levy appeals under consideration. A trustee must select the applicable section(s) on the form. The Administrative Officer for the Local Government Tax Control Board must be able to identify which appeal the township is applying for before a hearing will be scheduled.

Second Page: This page provides a list of information that should accompany the excessive levy appeal request.

Third Page: This page provides a summary financial background of the unit for the current and previous three years on a comparison basis. This gives the DLGF an idea of the financial trend of the unit.

The fiscal body must specify why an appeal is necessary. This should not consist of a general statement that expenses have increased. The fiscal body should specify which costs have increased or what services cannot be provided to taxpayers. This section should support the entire need for the appeal. Additional pages can be attached if the space provided is not ample.

- 1) **Three-year growth factor:** According to IC 6-1.1-18.5-13(b)(3), a unit may qualify for this appeal if its average assessed valuation growth quotient (AVGQ) over the last three years exceeds the statewide average AVGQ by at least three percent (2%). The following example illustrates the appeal.

Step 1 Determine a unit's certified assessed valuation for the last four years:

Step 2 Calculate the assessed valuation growth for each of the last three years.

Step 3: Calculate the average assessed value growth quotient by taking the sum of the results of Step 2 and dividing by three (3).

Step 4: Determine the statewide certified assessed valuation for the last four years.

Step 5: Calculate the assessed value growth for each of the last three years.

Step 6: Calculate the average statewide-assessed value growth quotient by taking the sum of the results of Step 5 and dividing by three (3).

Step 7: Divide the Step Three amount by the Step Five amount.

Note: The Step Seven amount must be equal to or greater than 1.02 to qualify for the appeal.

The DLGF makes a determination on whether or not the unit meets the requirements for the appeal.

- 2) **Volunteer fire expense:** This appeal is according to IC 6-1.1-18.5-13(b) (4) and is for townships that contract with a volunteer fire department for fire protection services. A township that experiences at least twenty-percent (20%) growth in operating expenses may qualify. The township must be at its maximum levy limitation to be considered for this appeal. The amount a unit qualifies for is based upon the following calculation as demonstrated by this example.

a.	2006 approved budget amount for volunteer fire expense (as reflected on the budget order)	\$20,000
b.	2006 approved additional appropriations for volunteer fire expense	\$15,000
c.	Total Volunteer Fire expense: (add lines a and b)	\$35,000
d.	Minus amount of emergency loan for the same	\$ 0
e.	Net total 2006 Volunteer Fire appropriation (add lines c and d)	\$35,000
f.	Multiply line e by 20%	\$ 7,000
g.	Determine the lesser of line f or \$10,000	\$ 7,000
h.	2007 adopted budget amount (adopted by fiscal body)	\$38,000
i.	Difference between 2006 and 2007 (h-e)	\$ 3,000

There are three figures the Department reviews when determining the amount of appeal available for Volunteer Fire Expense: line f, line i and \$10,000. The unit is eligible for an amount that is the lesser of these three figures. To determine if your township is eligible for an appeal, simply work the formula and compare the three figures. A detailed listing of current expenditures and proposed increases in expenditures must be submitted to demonstrate the need for an appeal. The proposed increases must equal the amount you qualify for. Remember: a unit must advertise and adopt a levy amount that includes anticipated appeal(s).

The following are considered qualifying expenses for a Volunteer Fire Appeal: hydrant rental, insurance, clothing allowance, gasoline and oil, repairs, supplies, heat for buildings, water and other utilities, contract payments.



This appeal is for townships that contract with a volunteer fire department for fire protection services.

- 3) **Fire Fighting Services:** The fire fighting services appeal is for townships that pursued emergency borrowing during each of the last three years. The appeal allows for a permanent increase in the maximum levy equal to the lowest amount borrowed in the preceding three years. The fiscal body may elect to phase-in the excessive levy appeal over a three-year period. At the time the Control Board considers the request, the fiscal body must present a resolution specifying whether the excessive levy appeal will be phased in over a two-year or three-year period or levied in one year.
- 4) **Correction of any advertising errors, mathematical errors or errors in data.** The unit simply states what type of error(s) occurred and the amount of the error that should be considered by the Control Board. The Department of Local Government Finance will review the information presented and consider the appeal. The appeal

form should provide documentation that identifies the type and amount of errors made.

- 5) **Shortfall due to erroneous assessed valuation:** This appeal is applicable to all taxing units that experience a shortfall of property taxes due to erroneous assessed value. The unit must state the specific cause of the shortfall and provide the following: Form 22's (Certificate of Tax Distribution) for all funds within the maximum levy, County Form 127CER (Register of Certificates of Error), and County Form 17TC (Certificate of Tax Refund Claims). Shortfall appeals without appropriate documentation may be subject to disapproval and no shortfalls will be considered for delinquent tax payments. Anticipated shortfalls based on current year distributions will not be considered unless the unit can prove extreme financial hardship. This appeal is temporary and results in an increase in levy for one year only.
- 6) **Increases in pension payments and contributions:** This appeal is for units that experience increases in pension payments and/or contributions for police. This appeal is a permanent increase to the maximum levy. This appeal is rarely filed on the county level. The amount a unit qualifies for is based upon the following calculations as demonstrated by this example:

CONTRIBUTIONS

a) Number of personnel for whom contributions were made for Ensuing Year	45
b) Number of personnel for whom contributions are to be made for Current Year	30
c) Increase in personnel [Line (a) minus Line (b)]	15
d) Ensuing year contributions	\$315,000
e) Current year contributions	\$210,000
f) Increase in contributions [(d) – (e)]	\$105,000

PENSION PAYMENTS

g) Ensuing year appropriations for pension payments	\$420,000
h) Current year appropriations for pension payments	\$380,000
i) Increase in pension payments [(g) – (h)]	\$ 40,000
j) Number anticipated to receive benefits for ensuing year	16
k) Number receiving benefits during calendar year	12

APPEAL CALCULATIONS

l) Total contributions and payments current year [(e) + (h)]	\$590,000
m) Multiply line (l) by 1.1	\$649,000
n) Total contributions and payments for ensuing year [(d) + (g)]	\$695,000
o) Amount to be considered for levy increase [(n) – (m)]	\$ 46,000



This appeal is for townships that experience increases in pension payments and/or contributions for firefighters.

- 7) Township Poor Relief Rate (not to exceed .0167 rate):** This appeal is for townships that do not levy an amount equal to a .0167 rate. The following calculation may be used to determine if a township qualifies for the appeal.

Example:

a. Total current year (CY) poor relief expenditures	\$ 25,000
b. Total current year certified poor relief budget	\$ 40,000
c. Total ensuing year adopted poor relief budget	\$ 46,000
d. Total poor relief expenditures first 6 months of CY	\$ 24,000
e. Current year poor relief rate	\$.01
f. Ensuing year adopted poor relief rate	\$.0167
g. Difference (Line b-c)	\$ 6,000
h. Difference between Ensuing year and Current year poor relief rate	\$.0067
i. Line h multiplied by assessed value AV 450,000.00 x .0067 =	\$ 3,015
j. Lesser of line g or line i	\$ 3,015

- 8) Township Fire Contracts with Municipality:** This appeal is for townships that contract with a fire municipality. A township may appeal for an increase in levy based on the difference between the township's certified fire rate and the fire rate used by the municipality. A township is not required to appeal a second time for the difference in rate. The following calculations must be used to determine the applicable amount for the appeal.

Example: CY= Current Year EY= Ensuing Year

a. CY Certified Township Budget	\$ 15,000
b. CY Certified Township Fire Maximum Levy	\$ 7,500
c. CY Township Fire Assessed Valuation	\$ 6,000,000
d. CY Certified Township Fire Rate (7,500/60,000.00)	\$.125
e. CY Certified Municipality Fire Budget	\$ 430,000
f. Certified Municipality Fire Levy	\$ 368,000
g. CY Municipal Assessed Valuation	\$ 125,000,000
h. CY Municipality Fire Rate (368,000/1,250,000.00) = .2944	\$.2944

The Municipality CY certified rate .2944 minus the Township CY certified rate .125 = .1694 on appeal. However, the appeal is limited in the first year to 50% of the difference between the rates. The unit must appeal again to increase the rate not to exceed the rate of the City. This is the amount the Local Government Tax Control Board would consider during your excessive levy appeal hearing.



A township may appeal for an increase in levy based on the difference between the township's certified fire rate and the fire rate used by the municipality.

Financial Information Sheet

The township trustee is required to complete a financial information sheet for each appeal filed. The purpose of the financial information sheet is to provide an overview of revenue and expense for each fund in the township. The financial information sheet resembles a sixteen-line statement and contains current year information and ensuing calendar year information. Most of the information requested can be found on a copy of your 16-line statement presented by the Department of Local Government Finance at your fall budget hearing. The Department of Local Government Finance requires a completed financial information sheet to be submitted with the appeal petition and resolution before consideration of the appeal.

The Department of Local Government Finance and the Local Government Tax Control Board review the financial information sheet to insure that additional revenues are not currently available that could be used to support the budget in lieu of filing an appeal request.

Recommendation by Control Board

The Control Board reviews the appeal information and ensures proper procedures have been followed. The Control Board makes a recommendation to the Department approving, reducing, or disapproving an appeal request. It is important to understand that the Control Board is a recommending body only. The Department of Local Government Finance will make a decision based on the information presented and testimony given at the hearing. An order will be issued reflecting the final decision of the Department of Local Government Finance.



The Control Board makes a recommendation to the Department approving, reducing, or disapproving an appeal request. It is important to understand that the Control Board is a recommending body only.

Additional Levy

If the Department of Local Government Finance approves an excessive levy appeal for your township, the amount will be “worked” in prior to certification of budgets, tax rates and tax levies for the township.

Summary

Chapter 8: The Excessive Levy Appeal Process



In this section, we have discussed the following:

- *Any township that determines that it cannot carry out its governmental functions for the ensuing calendar year under the levy limitations imposed by statute, may before September 20 of the year preceding the ensuing calendar year appeal to the Department of Local Government Finance for an increase in levy.*
- *A township must consider application for an appeal during budget preparation.*
- *The township must specify why an appeal is necessary.*
- *The township must indicate what type of appeal (statutory relief) is being requested.*
- *The three-year growth factor appeal is applicable to townships that experience excessive growth over a three-year period.*
- *The volunteer fire expense appeal is for townships that contract with a volunteer fire department for fire protection services.*

Summary (Continued)

Chapter 8



In this section, we discussed the following:

- *The increases in pension payments and contributions appeal is for townships that experience increases in pension payments and/or contributions for firefighters.*
- *A township may appeal for an increase in levy based on the difference between the township's certified fire rate and the fire rate used by the municipality.*
- *The Control Board makes a recommendation to the Department approving, reducing, or disapproving an appeal request. It is important to understand that the Control Board is a recommending body only.*